

UNITED STATES DISTRICT COURT
For the District of Massachusetts

ITV DIRECT, INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	
HEALTHY SOLUTIONS, LLC, ET. AL.,)	
)	
Defendants.)	
)	
CAPPSEALS, INC.,)	
)	
Plaintiff-in-Intervention)	C. A. No. 04-CV10421-JLT
)	
v.)	
)	
HEALTHY SOLUTIONS, LLC., d/b/a)	
DIRECT BUSINESS CONCEPTS; ITV)	
DIRECT, INC. AND DIRECT)	
FULFILLMENT, LLC.)	
)	
Intervenor-Defendants.)	
)	

AFFIDAVIT OF SCOTT A. SILVERMAN

1. My name is Scott A. Silverman, and I am an associate with the law firm of Gadsby Hannah LLP located in Boston, MA. I am counsel for the Plaintiff-in-Intervention, Cappseals, Inc. ("Cappseals"). I submit this Affidavit in support of Cappseals' Motion for Summary Judgment Pursuant to Federal Rule of Civil Procedure 56.

2. This Affidavit serves to place the attached documents before the court, and, to further attest, based upon personal knowledge, to the facts contained herein.

3. Attached as **Exhibit A** is a true and accurate copy of a Purchase Order sent by ITV Direct, Inc. ("ITV") on October 8, 2003 to Healthy Solutions identified as Purchase Order No. 1078.

4. Attached as **Exhibit B** is a true and accurate copy of a Purchase Order sent by ITV on November 21, 2003 to Healthy Solutions identified as Purchase Order No. 1101.

5. The parties have stipulated to the authenticity of these documents and to the fact that these are the business records of ITV.

Sworn to under the pains and penalties of perjury this 3rd day of June, 2005.

/s/ Scott A. Silverman
Scott A. Silverman

CERTIFICATE OF SERVICE

I hereby certify that true and accurate copies of the foregoing Affidavit of Scott A. Silverman with exhibits was served on the foregoing attorneys of record pursuant to Fed. R. Civ. P. 5 as follows:

Via electronic notification:

Peter S. Brooks pbrooks@seyfarth.com

Susan W. Gelwick sgelwick@seyfarth.com

Dustin F. Hecker dhecker@pbl.com

Christopher F. Robertson crobertson@seyfarth.com

Becky Christensen bvc@ocmiplaw.com

/s/ Scott A. Silverman
Daniel J. Kelly BBO# 553926
dkelly@ghlaw.com
Scott A. Silverman, BBO #638087
ssilverman@ghlaw.com
Gadsby Hannah LLP
225 Franklin Street
Boston, MA 02110
(617) 345-7000

DATED: June 3, 2005